

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric
Company (U 902-E) for an Order Implementing
Assembly Bill 265.

Application 00-10-045
(Filed October 24, 2000)

Application of San Diego Gas & Electric
Company (U 902-E) for Authority to Implement
an Electric Rate Surcharge to Manage the Balance
in the Energy Rate Ceiling Revenue Shortfall
Account.

Application 01-01-044
(Filed January 24, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON NOTICE OF INTENT TO CLAIM COMPENSATION**

Utility Consumers' Action Network (UCAN) has submitted a Notice of Intent to Claim Compensation (NOI) dated October 5, 2001. This ruling addresses UCAN's NOI.

Timeliness of Filing

Pub. Util. Code § 1804(a)(1) requires that a customer who intends to seek an award of compensation must file and serve an NOI no later than 30 days after the prehearing conference (PHC). The first PHC in this proceeding was held on February 16, 2001, and the time for filing NOIs therefore would have expired. However, § 1804(a)(1) also provides that "where new issues emerge subsequent to the time set for filing, the commission may determine an appropriate procedure for accepting new or revised notices of intent."

An April 30, 2001 ruling by Assigned Commissioner Wood established such a procedure in light of the expanded scope of this proceeding. (April 30 Ruling, p. 13.) It provided that NOIs would be accepted for filing within 30 days of the date of that ruling by parties intending to address issues added to the proceeding after the February 16 PHC.

UCAN states that it was compelled to respond to a motion by San Diego Gas & Electric Company (SDG&E) for approval of a Memorandum of Understanding (MOU) of SDG&E, Sempra Energy, and the Department of Water Resources. The motion was filed on July 16, 2001. UCAN contends that the filing of this motion significantly changed the nature of this proceeding. UCAN states that since the MOU motion was filed, it has had to expend significant resources in analyzing the MOU and fashioning a competing stipulation among parties.

UCAN contends in effect that SDG&E's motion for implementation of the MOU and ensuing events represent the emergence of new issues in this proceeding. I agree, and in accordance with § 1804(a)(1) hereby determine that UCAN and other parties whose participation is prompted or affected by the MOU motion should have an opportunity to file an NOI in this proceeding. Therefore, UCAN's NOI is deemed to be timely filed, and other parties whose participation is prompted or affected by the MOU motion may file NOIs within 30 days of the date of this ruling.

Qualification as a Customer

UCAN is a nonprofit consumer advocacy organization with a long history of representing the interests of residential and small commercial customers of California utility companies before the Commission. The "overwhelming majority" of its approximately 36,000 dues-paying members are residential

customers. UCAN's articles of incorporation, relevant portions of which were filed in R.98-12-015, have been found to be sufficiently drafted to authorize its representation of the interests of residential customers.

Pursuant to D.98-04-059, UCAN has demonstrated that it meets the statutory definition of customer (§ 1802(b)) as a group authorized pursuant to its articles of organization and bylaws to represent and advocate the interests of residential and small commercial customers of California utilities.

Representation of Underrepresented Interests

D.98-04-059 directs customers to address in their NOIs whether they represent customer interests that would otherwise be underrepresented. UCAN notes that it is the only San Diego-based representative of residential and small commercial customers.

Nature and Extent of Participation

Pursuant § 1804(a)(2)(A)(i), UCAN states that it plans to actively participate in all issues raised by the proposed MOU.

Estimate of Compensation

Pursuant § 1804(a)(2)(A)(ii), UCAN submitted a breakdown of the total estimated compensation of \$80,750 that it expects to request. This ruling makes no affirmative findings regarding the reasonableness of the total or any component of the estimate.

Significant Financial Hardship

UCAN states that it made a showing of significant financial hardship in C.00-04-039, and that the showing was accepted by an Administrative Law Judge's ruling dated January 25, 2001. UCAN submits that this establishes a rebuttable presumption of eligibility in this proceeding under § 1804(b)(1). However, the January 25, 2001 ruling in C.00-04-039 itself found the existence of

a rebuttable presumption based upon an earlier finding of significant financial hardship made in April 2000. The January 25, 2001 ruling relied solely on the rebuttable presumption, and did not independently make a finding of significant financial hardship.

The rebuttable presumption allowed under § 1804(b)(1) is not established by a previous rebuttable presumption. UCAN has neither made a showing of significant financial hardship nor established the existence of a rebuttable presumption of its eligibility for compensation in this proceeding. Therefore, UCAN must include a showing of significant financial hardship in any request for compensation that it submits in this proceeding.

IT IS RULED that:

1. Utility Consumers' Action Network (UCAN) is eligible to file for an award of intervenor compensation at the conclusion of this proceeding, provided that UCAN must include with any compensation request that it submits in this proceeding a showing of significant financial hardship. Any award is contingent upon a future showing that the intervenor has made a substantial contribution to this proceeding, as required by statute.

2. Any party whose participation in this proceeding is prompted or affected by the July 16, 2001 motion of San Diego Gas & Electric Company (SDG&E) for approval of a Memorandum of Understanding of SDG&E, Sempra Energy, and the Department of Water Resources may file an NOI within 30 days of the date of this ruling.

Dated October 30, 2001, at San Francisco, California.

/s/ Mark S. Wetzell

Mark S. Wetzell

A.00-10-045, A.01-01-044 MSW/sid

Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling on Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated October 30, 2001, at San Francisco, California.

/s/ Fannie Sid

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.